

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

x
SECURITIES INVESTOR PROTECTION :
CORPORATION, :
 :
 : Adv. Pro. No. 08-01789 (CGM)
Plaintiff- :
Applicant, :
 : SIPA LIQUIDATION
 :
v. : (Substantively Consolidated)
 :
BERNARD L. MADOFF INVESTMENT :
SECURITIES, LLC, :
 :
Defendant. :

x
In re: :
 :
BERNARD L. MADOFF, :
 :
Debtor. :

x
IRVING H. PICARD, Trustee for the : Adv. Pro. No. 11-02570 (CGM)
Liquidation of Bernard L. Madoff Investment :
Securities LLC, and Bernard L. Madoff, :
 :
Plaintiff, :
 :
v. :
 :
BANCA CARIGE S.P.A., :
 :
Defendant. :

**DECLARATION OF FRANCESCO GUIDO
IN SUPPORT OF DEFENDANT'S MOTION TO DISMISS FOR
LACK OF PERSONAL JURISDICTION AND FOR FAILURE TO STATE A CLAIM**

I, Francesco GUIDO, being duly sworn, declare the following under penalty of perjury:

1. I am Chief Executive Officer at Banca Carige S.p.A. (“Banca Carige”) and submit this declaration (the “Declaration”) in support of Banca Carige’s motion to dismiss the Complaint.¹ The facts stated herein are true to the best of my knowledge based on (i) my personal knowledge, (ii) information provided by Banca Carige employees, or (iii) records maintained by Banca Carige in its regular course of business, and I could and would testify competently thereto if called as a witness.

2. Banca Carige was founded in 1483, is headquartered in Genova, Italy, has its principal place of business in Italy, and is incorporated as a joint stock company under the laws of Italy.

3. Banca Carige’s shares are registered in Italy and are traded on the Borsa Italiana stock exchange. Currently, no American Depositary Receipts for Banca Carige trade on United States stock markets.

4. Banca Carige does not maintain an office in the United States.

5. Banca Carige does not own or lease any real estate in the United States.

6. Banca Carige does not regularly conduct any business in the United States.

7. On or about March 1, 2007, Banca Carige made an equity investment of \$10,000,000 in Fairfield Sentry Limited (“Fairfield Sentry”) pursuant to a subscription agreement (the “Subscription Agreement”) whereby Banca Carige acquired the right to redeem its shares at Fairfield Sentry’s net asset value at the time the shares were tendered. The Subscription Agreement is attached as **Exhibit 1** to this Declaration, and a copy of the issuance of shares in Fairfield Sentry is attached as **Exhibit 2** to this Declaration.

8. All of Banca Carige’s transactions with Fairfield Sentry were conducted through

¹ Capitalized terms not defined herein shall have the same meaning as ascribed in the motion to dismiss the Complaint.

Fairfield Sentry's Dutch administrator, Citco Funds Services (Europe) B.V. ("Citco").

9. Banca Carige's investment payment in Fairfield Sentry was made pursuant to instructions provided by Citco for credit to the Dublin branch of Citco Bank Nederland NV.

10. On or about October 16, 2007, Fairfield Sentry paid \$10,532,489 to Banca Carige to redeem the shares in Fairfield Sentry that Banca Carige had previously acquired pursuant to the Subscription Agreement.

11. The redemption payment was made by wiring the funds to Banca Carige's correspondent account at Wachovia Bank in New York. A copy of the redemption confirmation is attached as **Exhibit 3** to this Declaration.

12. Foreign financial institutions often use correspondent accounts to receive U.S. dollar-denominated payments. Here, the payments to and from Fairfield Sentry traveled to and from Fairfield Sentry in the BVI to Banca Carige in Italy by way of a U.S.-based correspondent account to facilitate clearing the U.S. dollar transactions.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury under the laws of the United States, that the foregoing statements are true and correct to the best of my knowledge and belief.

Dated: January 25, 2022

Respectfully submitted,

By: Francesco GUIDO - digitally signed



Documento firmato da:
FRANCESCO GUIDO
25.01.2022 13:12:55 UTC